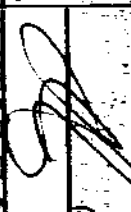


Is your RETURN ADDRESS completed on the reverse side?

SENDER: Complete items 1 and/or 2 for additional services. Complete items 3, 4a, and 4b. Print your name and address on the reverse of this form so that we can return the card to you. Attach this form to the front of the mailpiece, or on the back if space does not permit. Write "Return Receipt Requested" on the mailpiece below the article number. The Return Receipt will allow to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: Mr. James W. Hieckovich Atlantic Electric 6801 Black Horse Pike P.O. Box 1500 Pleasantville, NJ 08233		4a. Article Number 7 311 694 4068	
4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD		<input checked="" type="checkbox"/> Certified <input type="checkbox"/> Insured <input type="checkbox"/> COD	
5. Date of Delivery 5/26/99		6. Addressee's Address (Only if requested and fee is paid)	
8. Received By: (Print Name) 		9. Signature (Address of Agent) X	

Thank you for using Return Receipt Service.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

May 22 1998

FILE COPY

In the Matter of:

Notice Of Violation

Atlantic Electric

Index No.

BL England Power Station

A-98-008

STATUTORY AUTHORITY

COPY

THIS NOTICE OF VIOLATION ("NOV") is issued to Atlantic Electric, BL England Power Station ("Respondent") for a violation at its facility located at 900 North Shore Road, Beesley's Point, NJ ("the facility"), pursuant to Section 113(a)(1) of the Clean Air Act (the "Act"), 42 U.S.C. §7413(a)(1). Section 113(a)(1) requires the Administrator of the United States Environmental Protection Agency ("EPA") to notify a person in violation of a State Implementation Plan ("SIP"). The authority to issue NOV's has been delegated to the Division Director, Division of Enforcement & Compliance Assistance, EPA Region II.

REGULATORY BACKGROUND

1. Subchapter 8, Permits and Certificates, of the New Jersey Administrative Code ("N.J.A.C. 7:27-8") is part of the New Jersey SIP, and was approved by EPA on November 25, 1986, and is therefore federally enforceable. See 40 CFR § 52.1605.

2. N.J.A.C Section 7:27-8.3(e)(1) provides that the operator of a source of air emissions must comply with all of the conditions and provisions of the permit and certificate issued by NJDEP for the source.

3. The NJDEP issued a permit and operating certificate ("the operating permit") to the Respondent that includes a limit for the opacity of emissions from units #1, #2, and #3, by specifying that "[t]he opacity of the emissions from units #1, #2, and #3 shall not exceed 20%, except for a period not longer than three (3) minutes in any consecutive thirty (30) minute period."

4. The operating permit requires that compliance with its emission limitations must be determined by the use of Continuous Emission Monitors (CEMs) and stack testing as specified in Conditions V and VI, respectively.

5. Condition V of the operating permit requires the use of a CEM for measuring opacity.

FINDINGS

6. On December 5, 1997, an authorized EPA inspector performed an inspection of the Respondent's facility ("the inspection"). During the inspection, the inspector examined emissions records from the facility, including an "Emissions Exceedance Report" (EER) dated October 7, 1997.

7. The EER, which was prepared for NJDEP, indicated that the opacity of emissions from unit #3 was 26% for approximately seventeen (17) minutes on that date.

8. The inspector was able to confirm the information in the EER by examining opacity CEM records for that date.

CONCLUSION

9. Respondent has violated the term of its operating permit which limits the opacity of emissions from Units #1, #2, and #3 to 20%, except for a period not longer than three (3) minutes in any consecutive thirty (30) minute period.

RESPONDENT IS HEREBY NOTIFIED PURSUANT TO SECTION 113(a)(1) OF THE CLEAN AIR ACT THAT EPA HAS FOUND THAT RESPONDENT HAS VIOLATED REQUIREMENTS OR PROHIBITIONS OF THE NEW JERSEY STATE SIP AND IS CONSIDERED TO BE IN VIOLATION OF SUCH REQUIREMENTS OR PROHIBITIONS UNTIL IT HAS ESTABLISHED CONTINUOUS COMPLIANCE.

ENFORCEMENT

Section 113(a)(1) of the Act provides that at any time after the expiration of thirty (30) days following the date of the issuance of this Notice, EPA may, without regard to the period of violation,

- issue an order requiring compliance with the requirements of the state implementation plan,
- issue an administrative penalty order pursuant to Section 113(d) for civil administrative penalties of up to \$27,500 per day of violation, or

- bring a civil action pursuant to Section 113(b) for injunction relief and/or civil penalties of not more than \$27,500 per day for each violation.

Furthermore, for any person who knowingly violates any requirement or prohibition of the state implementation plan for more than 30 days after the date of the issuance of a NOV, Section 113(c) provides for criminal penalties or imprisonment, or both. In addition, under Section 306 of the Act, the regulations promulgated thereunder (40 CFR Part 15), and Executive Order 11738, facilities to be utilized in federal contracts, grants and loans must be in full compliance with the Act and all regulations promulgated pursuant thereto. Violation of the Act may result in the subject facility, or other facilities owned or operated by the Respondent, being declared ineligible for participation in any federal contract, grant, or loan program.

PENALTY ASSESSMENT CRITERIA

If a penalty is assessed under Section 113(b) or (d), Section 113(e)(1) of the Act states that the Administrator or the court, as appropriate, shall, in determining the amount of penalty to be assessed, take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

Section 113(e)(2) of the Act allows a penalty to be assessed for each day of the violation. For purposes of determining the number of the days of the violation, where the EPA makes a prima facie showing that the conduct or events giving rise to this violation are likely to have continued or recurred past the date of this NOV or any prior notice of the same violation, the days of violation shall be presumed to include the date of the notice and each and every day thereafter until Respondent establishes that continuous compliance has been achieved, except to the extent that Respondent can prove by the preponderance of the evidence that there were intervening days during which no violation occurred or that violation was not continuing in nature.

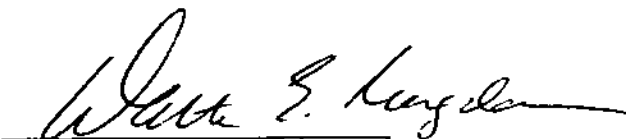
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Respondent may, upon request, confer with EPA. This conference will enable Respondent to present evidence bearing on the finding of violation, on the nature of the violation

and on any efforts it may have taken or proposed to take to achieve compliance. Respondent has the right to be represented by counsel. A request for a conference must be made within 10 days of receipts of this NOV. The request for a conference or other inquires concerning the NOV should be made in writing to:

Kate Donnelly
Assistant Regional Counsel
Air Branch
United States Environmental Protection
Agency - Region II
290 Broadway, 16th Floor
New York, New York 10007
(212) 637-3205

Issued: May 20, 1998



WALTER MUGDAN
Acting Director
Division of Enforcement & Compliance Assistance
United States Environmental
Protection Agency - Region II
290 Broadway - 21st Floor
New York, New York 10007

To: Mr. James W. Klickovich
Senior Coordinator - Environmental Planning
Atlantic Electric
6801 Black Horse Pike
P.O. Box 1500
Pleasantville, New Jersey 08232

cc: Mr. Donald Patterson
Assistant Director
Division of Environmental Quality
New Jersey Department of
Environmental Protection

bcc: Eng, Ken DECA-ACB
Manasia, Dan DECA-ACB
Mangels, Karl DECA-ACB
Stone, David ORC-AIR
Donnely, Kate, ORC-AIR

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----X
In the Matter of: : Notice Of Violation
Atlantic Electric :
BL England Power Station :
-----X

STATUTORY AUTHORITY

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CONCURRENCES

Name:	Init:		Date:		Filename: F:\USER\DMANASIA\DOCS\ATLANTES NOV	
Symbol	Deca-Acb	Deca-Acb	ORC-Air	ORC-Air	DECA-DO	
Surname	Manasia	Eng	Donnelly	Sign	Mugdan	
Date	5/4/98	5/15/98	5/18/98	5/14/98	5/20/98	

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Assistant Regional Counsel
Air Branch
United States Environmental Protection
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290 Broadway, 16th Floor
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Issued: _____, 1998

WALTER MUGDAN
Acting Director
Division of Enforcement & Compliance Assistance
United States Environmental
Protection Agency - Region II
290 Broadway - 21st Floor
New York, New York 10007

To: Mr. James W. Klickovich
Senior Coordinator - Environmental Planning
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6801 Black Horse Pike
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cc: Mr. Donald Patterson
Assistant Director
Division of Environmental Quality
New Jersey Department of
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bcc: Eng, Ken DECA-ACB
Manasia, Dan DECA-ACB
Mangels, Karl DECA-ACB
Stone, David ORC-AIR
Donnelly, Kate, ORC-AIR

CHECKLIST FOR ENFORCEMENT CASE SCREENING¹
-ENFORCEMENT CONFIDENTIAL--NOT RELEASABLE UNDER FOIA-

Name of Violator: Atlantic Electric - BL England Power Sta.
Address (Street Address, County, State): 900 North Shore Rd.
Beesley's Point, NJ

EPA I.D. Number: _____

Based on Information as of (date): _____

Program Contact: Dan Manasia

*Applicable Special Initiatives: _____

Originating Program: AIR

Type of Violation: Permit/Opacity (Permit Violations;
Unpermitted/Disallowed Activity; Reporting; Cost Recovery;
Regulatory; Other [Please Explain _____])

Toxics Release Inventory Reviewed & Attached (Yes/No) No N/A _____

ATTACH ADDITIONAL COMMENTS AS APPROPRIATE

ORIG. PROGRAM RESPONSIBILITIES: (1) ENSURE EARLY COMPLETION OF
CHECKLIST; (2) INCLUDE CHECKLIST WITH ALL PROPOSED/FINAL
ENFORCEMENT ACTIONS

For each of the items below, enter "Yes" or "No" in the space
indicated.

Section A

THE INSPECTOR SHOULD COMPLETE ALL ITEMS IN SECTION A

Is the violator:

1. Listed in the IDEA Multi-media Noncompliance Reports as
having outstanding unresolved violations in one or more other

¹This is a pre-decisional document protected by the
deliberate process and attorney work product privileges (and may
also be a privileged attorney-client communication). Conclusions
or recommendations are intended solely as preliminary information
for government personnel. This checklist contains tentative
conclusions and staff-level recommendations and does not create
any rights, substantive or procedural, or defenses, as they are
not binding on the Agency or DOJ.

programs and in which no enforcement actions have been taken in of these programs. NO

2. If yes, which programs? _____ (Circle all that apply, CAA, NPDES, UIC, UST, RCRA, WETLANDS, PWS, TSCA, FIFRA, EPCRA, AHERA, MPRSA, OTHER (Explain _____))

3. Based on the Multi-media inspection checklist findings, are there suspected violations under other statutes? If yes, which ones (Circle all that apply CAA, NPDES, UIC, UST, RCRA, WETLANDS, PWS, TSCA, FIFRA, EPCRA, CERCLA, AHERA, MPRSA, OTHER (Explain NO _____))

4. A repeat violator in the same program? NO

5. On the Final NPL? NO

6. On the Adjudicated Guilty Criminal Violators List? NO

7. On the Consent Decree Tracking List? NO

8. On the IDEA System Corporate Profile List ²? NO

9. On the Contractor Listing/Debarment List? NO

A "Yes" response to one or more of questions 1-9 may indicate the need to consider the following: Multi-media Enforcement, Environmental Auditing, Pollution Prevention, Contractor Listing, Suspension and Debarment, Civil Judicial Enforcement, Criminal Enforcement. See additional questions to be answered below.

Conditions Which May Indicate Pollution Prevention Opportunities

10. Is the facility reporting significant emissions of chemicals under TRIS? (i.e, within top 25 percent of companies reporting emissions of one or more chemicals) NO

11. Was "Yes" response indicated above for question 1. _____

²This list is not yet available through the IDEA System

12. Are there known feasible pollution prevention opportunities based on the inspector's observations/knowledge of the facility/industry?

NO

13. Does the facility have a waste minimization program in place? Yes

A "Yes" response to one or more of questions 10-12 or a "No" response to question 13 may indicate the need to include pollution prevention requirements in an enforcement order.

Conditions Which May Indicated Multi-media Potential

14. Were "Yes" responses indicated above for questions 1, 3, or 8? NO

15. Does the proposed, or likely, REMEDY result in any cross-media impacts? (e.g. require a NPDES or AIR permit or increase water or air pollution) NO

A "Yes" response to questions 14-15 may indicate the need to consider coordination with other programs. If coordination is necessary, forward a copy of the checklist to the appropriate program Branch Chief(s) and the appropriate ORC Branch Chief(s).

Conditions Which May Indicate Need for Communications to Leverage Broad Deterrence

16. Is there a need for a press release? Explain.

NO

Conditions Which May Indicate Criminal Enforcement Potential
(NO WRITTEN RESPONSE REQUIRED)

- a. potential document falsification
- b. unauthorized discharge/emission/shipment with significant environmental impact
- c. monitoring or control equipment tampering
- d. violations potentially deliberate/intentional/knowing
- e. repeated violations
- f. through negligence, places another person in imminent danger of serious injury or death.
- g. other violations for criminal enforcement

Evidence of any of these factors whenever identified will be referred to the Office of Criminal Investigations and Regional Criminal Enforcement Attorney.

Section B

THE PROGRAM OFFICE AND ORC SHOULD COMPLETE ITEMS 18-22

Conditions Which May Indicate Civil Judicial Enforcement Potential (Complete jointly with ORC)

17. Is there apparent legal or program precedent involved?

NO

18. Are there environmental consequences which may indicate the need for judicial action instead of an administrative action? _____

19. Were "Yes" responses indicated above for questions 4, 7 or 8?

20. Is there a preference for the deterrent message of a civil judicial action? _____

21. Is a judicial action necessary to impose an appropriate penalty? _____

A "Yes" response to one or more of questions 17-21 may indicate the need to consider civil judicial enforcement response rather than administrative. Other considerations include the likelihood of obtaining a favorable ruling on a case as well as program resource impact.